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SUBJECT: CHIEF JUSTICE ON THE JUDICIARY

Classified By: CDA CLAUDIA ANYASO. REASONS: 1.5 (B & D)

1. (C) SUMMARY: Nigeria,s Supreme Court Chief Justice Mohammed Uwais continues his efforts to rehabilitate the image of the Judiciary, and especially the Supreme Court, by speaking out on Nigeria,s problems. Following the latest January round of dueling court rulings in the Anambra governorship case, Uwais addressed the press and talked privately to PolOff. To reporters, he criticized his own judiciary and offered public ideas for improving its performance. Privately, he expressed his concerns for Nigeria's future and provided his assessment of the ongoing Presidential election tribunal. He said the judiciary would decide that case "solely on the merits of its legal arguments." Previously anxious about Nigeria's future, Uwais seemed confident in the country's ability to weather even the worst scenarios looming ahead. END SUMMARY.

UWAIS COMMENTS IN PUBLIC

2. (U) Publicly, Uwais made four points. First, he called on the Nigerian public to help "police" the judiciary. He asked that any citizen who knew of judicial malfeasance come forward to help the Supreme Court and the National Judicial Council (NJC) ferret out the "few bad judges." He also lamented that judges were being subjected to unprecedented pressure from outside the courts system and many felt unable to perform their duties. Citing the Omisore case and its list of revolving judges, he said that pressure from outside should not prevent a judge from carrying out his duty. However, Uwais allowed, it was unfair to assign "high-profile" cases to junior members of the judiciary, a practice endorsed by many senior judges in order to protect themselves. The senior judge in the jurisdiction should accept any case with the potential for publicity and political blowback, Uwais suggested.

3. (U) Responding to the reporter's questions on an Enugu State judge issuing an order ousting the Anambra State governor, Uwais commented that the issue of such "co-ordinate jurisdiction" has been under serious discussion within the judiciary for some time. At the December annual judiciary retreat, Uwais says that this topic was one of the two primary issues. On the specific case, he said that Justice Nnaji, the judge in Enugu who issued the order ousting Anambra Governor Ngige again, would have to show a pattern of questionable rulings before his case would rise to the level of the NJC. Uwais declined comment on the ruling as it was still sub judice, but stated that all judges are aware that they should refrain from entertaining cases outside their respective states of jurisdiction.

4. (U) Finally, Uwais maintained that the judiciary could not be held responsible for "courting military intervention." He averred that no past coup had been instituted because of judicial actions. Uwais agreed that conflicting judicial decisions were troublesome, but suggested allowing the processes to continue to their logical conclusions, to the Supreme Court if necessary.

PRIVATELY, ON THE JUDICIARY

5. (S/NF) In his meeting with PolOff on the same day as the newspaper interview, Uwais echoed the same themes as well as discussed the Election Tribunal hearing the complaints of the ANPP and its candidate Muhammadu Buhari. Uwais said that he was "tired of meddling from above." He complained specifically about Nnaji in Enugu and what he said was President Obasanjo,s promise to promote Nnaji to the Federal Appeals Court in exchange for the decision. He cited the history of cooperation between the Presidency and another judge, Egbo-Egbo, who has ruled against Ngige. Uwais said "we recommended that the President sack Egbo-Egbo but he has refused to act." He commented that the NJC played an investigatory and advisory role, but that no judge could be removed without the President's concurrence, thereby undermining the independence of the judiciary.

AND ON THE ELECTION TRIBUNAL

6. (S/NF) Turning to the election tribunals, Uwais had obviously been considering the judicial dilemma for some time. "We know the PDP rigged the elections," he said, "but

it is up to the ANPP to prove it" in court. Stating that he had been following the tribunal on a daily basis, he said that the evidence presented thus far was "substantial." Uwais also pointed out that the President and INEC would be limited in presenting their defense: The prosecution and defense were required to file their pleadings at the beginning of the case, but while the ANPP was thorough, but it appeared that Obasanjo and INEC had merely gone through the motions without laying the groundwork for evidence they might present to refute the ANPP's claims.

17. (C) Discussing the theoretical outcome of the case, Uwais said that if the Tribunal found in favor of the ANPP, it would have to declare the April 19 election "a nullity." At that point, Obasanjo and Vice President Atiku would no longer be in office. The leadership mantle would pass to the Senate President who would be directed to conduct new elections within a specified period. Since INEC would be a losing party in the case, Uwais said, it was likely that some alternative would have to be found to direct the new elections.

18. (S/NF) Uwais said that the outcome depends on how well ANPP attorney Mike Ahamba presents his case. He is doing well so far, Uwais commented. He stated that the judiciary remains concerned about the potential for disruption and confusion in the wake of the tribunal, an argument put forth by the President to argue against entertaining the case. Uwais said he foresees potential problems for Nigeria regardless of who wins the case. On these matters, Uwais said that he had consulted with a wide range of politicians and military officers over the past few weeks. He stated that the concerns he once had about annulling the election "are now satisfied." If Ahamba makes his case in 13 or more states, Uwais continued, "I guarantee that the judiciary will decide the case solely on the merits of its legal arguments."

19. (S/NF) COMMENT: At his most recent previous meeting with PolOff, Uwais was very anxious and showed considerable apprehension about the confusion that could arise from overturning the elections. In this meeting Uwais seemed less concerned about the prospect of confusion, but was sanguine about the future of Nigeria's current democratic dispensation. For years, Uwais has maintained that he wants to clean up the judiciary and re-establish its independence. ANYASO